THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 21st day of November,2007

W.P.No.2847 of 1999

Between:-

M.N.Viswanathan & others … Petitioners

and

The General Manager, Singareni Collieries Company Ltd., Manuguru Project, Manuguru Division, Manuguru, Khammam District and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of respondents in not considering the case of the petitioners for promotion from Grade 'D' to Grade 'C' in spite of completion of requisite period of 3 years as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution and consequently to direct the respondents to consider the case of the petitioners for promotion to the post of Grade D to Grade C from the date of completion of 3 years service.

It appears, as on the date of filing of the Writ Petition, petitioners were working in Grade D as Drill Operators in Manuguru area of Kothagudem Region of Singareni Collieries Company Limited. It is their case that they had completed 3 years of service in the cadre of Grade D Drill Operator and after completion of 3 years service, they are entitled for promotion to Grade C Drill Operator; therefore, they are entitled for promotion to Grade C from the date of completion of 3 years service in Grade D and though several representations were made, they are not being promoted. Hence, this Writ Petition.

A detailed counter affidavit has been filed on behalf of respondents 1 to 4 denying the allegations made by the petitioners and asserting that as far as the promotion of Drill Operators is concerned, the same comes under the promotional avenues available for various tradesmen, which include those who are working in

excavation categories also. These include not only drill operators, but also E.P. Operators etc. As far as their promotional avenues are concerned, the same was agreed to by the respondent-Management with the Unions on 3-3-1989 by way of Memorandum of Settlement under Section 12(3) of the Industrial Disputes Act,1947. As per the settlement, the Tradesmen or Drill Operators, which include the Dumper Operators, are bound by the availability of vacancies in their respective regions and one cannot claim a vacancy in another region and say that he is entitled for the same. That will go against the very settlement itself. Thus, drill operators working in Manuguru area, which includes in the Kothagudem Region, have to wait for their turn of promotion and depend upon the availability of vacancies in their region, subject to a test and assessment. In fact, the respondent-company had issued a Circular dated 10-9-1992 whereunder selection procedure for various categories of E.P. Operators and E.P. Tradesmen has been spelt out.

Heard both sides.

Though there is no controversy that the petitioners are entitled for being considered for promotion to Grade C after completion of 3 years of successful service as Grade D Drilling Operator, in view of the settlement, unless and until vacancies are available, considering the promotion of the petitioners does not arise. Further, the vacancy which had arisen in one region cannot be filled up by the persons working in another region. Now it is more than 8 years since the Writ Petition has been filed and in the meanwhile, petitioners might have already been promoted to Grade C. If the petitioners are not considered for Grade C in view of non-availability of any vacancy as yet, respondents shall consider promotion of the petitioners to Grade C as per their seniority, eligibility and availability of vacancies, within a period of four weeks

from the date of receipt of a copy of this order. If the petitioners are already promoted to Grade C and if they are entitled for further promotion to Grade B, the authorities may consider their promotion as per the availability of vacancies and eligibility for their further promotion to Grade B also. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order and the respondents shall communicate the result to the petitioners.

With the above directions, the Writ Petition is disposed of. No order as to costs.

21-11-2007

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